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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,380	06/23/2005	Isador H Lieberman	CCF-6389PCT2/US	2534
26294 7590 10/05/2009 TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P. 1300 EAST NINTH STREET, SUITE 1700 CLEVEVLAND, OH 44114				
EXAMINER				
WOODALL, NICHOLAS W				
ART UNIT		PAPER NUMBER		
3775				
MAIL DATE		DELIVERY MODE		
10/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/540,380

**Applicant(s)**

LIEBERMAN, ISADOR H

**Examiner**

Nicholas Woodall

**Art Unit**

3775

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 18-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 18, 19, 22, 29 and 30 is/are allowed.
- 6) ☒ Claim(s) 20, 23 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 21 and 24-28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This action is in response to applicant's amendment received on June 1<sup>st</sup>, 2009.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 20, 23, and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weikel (U.S. Publication 2002/0032447) in view of Boynton (U.S. Patent 1,750,953).

Weikel discloses a device comprising an elongate member having a central axis and a means for articulating (50) a head section relative to a tubular portion (44, 74, etc.; see Figure 20 of the reference). The tubular portion that extends between a proximal end and a distal end portion, wherein the distal end portion includes the articulating head section (80) having a first end and a second end that articulates about an axis transverse to the central axis. The second end terminates with at least one planar stop surface and a cutting edge projecting a predetermined height from and integrally formed along a midline of the at least one planar stop surface, wherein the remainder of the at least one planar stop surface limits movement of the cutting edge along the central axis to prevent cutting further than the predetermined height. Weikel fails to disclose the device further comprising complimentary teeth between the head section and the tubular portion.

Weikel discloses a device wherein the tubular portion includes a moveable arm (74) connected to the means for articulating the head section, wherein rotation of the collar longitudinally moves the bar in the proximal/distal directions to articulate the head section of the device. Boynton teaches a device comprising an elongate member having a central axis and a means for articulating a head section, wherein the distal end of the moveable arm includes a set of ratchet teeth and the head section includes a ratchet wheel having complementary ratchet teeth in order to firmly support the head section at a plurality of angles relative to the tubular portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device of Weikel wherein the distal end of the moveable arm and the head section further comprises complementary ratchet teeth in view of Boynton in order to firmly support the head section at a plurality of angles relative to the tubular portion.

The examiner would like to note that the claims as currently presented do not specify where on the distal end of the tubular portion the ratchet teeth are located. Therefor, the examiner is interpreting the claims such that the ratchet teeth may be on any portion of the tubular portion that is on the distal half of the tubular portion, since the entire distal half can be interpreted as the distal end of the tubular portion.

***Allowable Subject Matter***

4. Claims 1-4, 18, 19, 22, 29, and 30 are allowed.
5. Claims 21 and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

6. Applicant's arguments, see pages 13-17, filed June 1<sup>st</sup>, 2009, with respect to the rejection(s) of claim(s) 20, 23, and 31-33 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Boynton as discussed above.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for cited references the examiner felt were relevant to the application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Woodall whose telephone number is (571)272-5204. The examiner can normally be reached on Monday to Friday 8:00 to 5:30 EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas Woodall/  
Examiner, Art Unit 3775

/Thomas C. Barrett/  
Supervisory Patent Examiner, Art  
Unit 3775